

MARTIN L. PERSCHETZ
Martin.Perschetz@srz.com

SUNG-HEE SUH
Sung-Hee.Suh@srz.com

WILLIAM H. GUSSMAN, JR.
Bill.Gussman@srz.com

SCHULTE ROTH & ZABEL LLP

919 Third Avenue
New York, New York 10022
Tel: (212) 756-2000; Fax: (212) 593-5955

LAWRENCE M. ROLNICK
lrolnick@lowenstein.com

SHEILA A. SADIGHI
ssadighi@lowenstein.com

CARL M. GREENFELD
cgreenfeld@lowenstein.com

LOWENSTEIN SANDLER PC

65 Livingston Avenue
Roseland, New Jersey 07068
Tel: 973-597-2500; Fax: 973-597-2400

Attorneys for Defendant Dr. Edward M. Scolnick

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

IN RE: MERCK & CO., INC. SECURITIES,
DERIVATIVE & "ERISA" LITIGATION

MDL No. 1658 (SRC)

THIS DOCUMENT RELATES TO:

Case No. 2:05-CV-01151-SRC-MAS
Case No. 2:05-CV-02367-SRC-MAS

THE CONSOLIDATED SECURITIES ACTION

(Document Electronically Filed)

**NOTICE OF DEFENDANT DR. EDWARD M. SCOLNICK'S
MOTION TO DISMISS THE CORRECTED CONSOLIDATED
FIFTH AMENDED CLASS ACTION COMPLAINT**

PLEASE TAKE NOTICE that on September 20, 2010, or as soon thereafter as counsel may be heard, Defendant Dr. Edward M. Scolnick, by his undersigned counsel, and pursuant to Rules 9(b) and 12(b)(6) of the Federal Rules of Civil Procedure and the Private Securities Litigation Reform Act of 1995, 15 U.S.C. § 78u-4, shall apply to the Honorable Stanley R. Chesler, of the United States District Court for the District of New Jersey, at the Frank R. Lautenberg U.S. P.O. & Courthouse, Room 417, Federal Square, P.O. Box 999 Newark, New Jersey 07101, for an Order dismissing with prejudice the Corrected Consolidated Fifth Amended Class Action Complaint on the grounds, among others, that Plaintiffs have failed to state a claim upon which relief may be granted. Defendant Dr. Edward M. Scolnick will rely in support of the motion on the Memorandum of Law and the Certification of Carl M. Greenfeld, Esq. submitted herewith. A proposed form of Order is also submitted herewith.

PLEASE TAKE FURTHER NOTICE that oral argument is respectfully requested.

Dated: June 18, 2010

Respectfully submitted,

LOWENSTEIN SANDLER PC

By: s/ Carl M. Greenfeld
Carl M. Greenfeld
cgreenfeld@lowenstein.com
Lawrence M. Rolnick
lrolnick@lowenstein.com
Sheila A. Sadighi
ssadighi@lowenstein.com
65 Livingston Avenue
Roseland, New Jersey 07068
Tel.: 973.597.2500
Fax: 973.597.2400

SCHULTE ROTH & ZABEL LLP

Martin L. Perschetz (admitted *pro hac vice*)

Martin.Perschetz@srz.com

Sung-Hee Suh (admitted *pro hac vice*)

Sung-Hee.Suh@srz.com

William H. Gussman, Jr. (admitted *pro hac vice*)

Bill.Gussman@srz.com

919 Third Avenue

New York, NY 10022

Tel: (212) 756-2000

Fax: (212) 593-5955

Attorneys for Defendant

Dr. Edward M. Scolnick